



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

METHODIST AMBULATORY & SURGICAL HOSPITAL
C/O HOLLOWAY & GUMBERT
3701 KIRBY DR STE 1288
HOUSTON TX 77098-3916

Respondent Name

ZURICH AMERICAN INSURANCE COMPANY

Carrier's Austin Representative Box

Box Number 19

MFDR Tracking Number

M4-10-4039-01

MFDR Date Received

May 13, 2010

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "it is the position of the Provider that all charges relating to the admission of this claimant are due and payable and not subject to the improper reductions taken by the carrier in this case. The carrier's position is incorrect and in violation of Rule §134.403."

Amount in Dispute: \$7,675.75

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The carrier submits that all fee reductions were made in accordance with the applicable fee guidelines. . . . The carrier determined that he correct reimbursement rate was \$1342.07. This rate is based upon the state fee schedule, less a contractual adjustment. No additional reimbursement is due."

Response Submitted by: Flahive, Ogden & Latson, 504 Lavaca, Suite 1000, Austin, Texas 78701

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
May 13, 2009	Outpatient Hospital Services	\$7,675.75	\$5,599.13

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403, titled *Hospital Facility Fee Guideline – Outpatient*, sets out the reimbursement guidelines for facility services provided in an outpatient acute care hospital.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 217 – BASED ON PAYER REASONABLE AND CUSTOMARY FEES. NO MAXIMUM ALLOWABLE DEFINED BY LEGISLATED FEE ARRANGEMENT. REDUCED TO FAIR AND REASONABLE.

- W1 – WORKERS COMPENSATION STATE FEE SCHEDULE ADJUSTMENT. PRICED ACCORDING TO THE STATE APC FEE SCHEDULE RATE.
- A2 – CONTRACTUAL ADJUSTMENT. ANY REDUCTION IS IN ACCORDANCE WITH THE FOCUS/AETNA WORKERS' COMP ACCESS LLC CONTRACT. FOR QUESTIONS REGARDING REDUCTIONS, PLEASE CALL 1-800-238-6288.

Issues

1. Are the disputed services subject to a contractual agreement between the parties to this dispute?
2. What is the applicable rule for determining reimbursement for the disputed services?
3. What is the recommended payment amount for the services in dispute?
4. Is the requestor entitled to reimbursement?

Findings

1. The insurance carrier reduced or denied disputed services with reason code A2– “CONTRACTUAL ADJUSTMENT. ANY REDUCTION IS IN ACCORDANCE WITH THE FOCUS/AETNA WORKERS' COMP ACCESS LLC CONTRACT. FOR QUESTIONS REGARDING REDUCTIONS, PLEASE CALL 1-800-238-6288.” Review of the submitted information found insufficient documentation to support that the disputed services were subject to a contractual fee arrangement between the parties to this dispute. Nevertheless, on September 22, 2010, the Division requested the respondent to provide a copy of the referenced contract as well as documentation to support notification to the healthcare provider, as required by 28 Texas Administrative Code §133.4, that the insurance carrier had been given access to the contracted fee arrangement. Review of the submitted information finds that the documentation does not support notification to the healthcare provider in the time and manner required. The Division concludes that, pursuant to §133.4(g), the insurance carrier is not entitled to pay the health care provider at a contracted fee. Consequently, per §133.4(h), the disputed services will be reviewed for payment in accordance with applicable Division rules and fee guidelines.
2. This dispute relates to facility services performed in an outpatient hospital setting with reimbursement subject to the provisions of 28 Texas Administrative Code §134.403, which requires that the reimbursement calculation used for establishing the maximum allowable reimbursement (MAR) shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register with the application of minimal modifications as set forth in the rule. Per §134.403(f)(1), the sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 200 percent, unless a facility or surgical implant provider requests separate reimbursement of implantables. Review of the submitted documentation finds that separate reimbursement for implantables was not requested.
3. Under the Medicare Outpatient Prospective Payment System (OPPS), each billed service is assigned an Ambulatory Payment Classification (APC) based on the procedure code used, the supporting documentation and the other services that appear on the bill. A payment rate is established for each APC. Depending on the services provided, hospitals may be paid for more than one APC per encounter. Payment for ancillary and supportive items and services, including services that are billed without procedure codes, is packaged into payment for the primary service. A full list of APCs is published quarterly in the OPPS final rules which are publicly available through the Centers for Medicare and Medicaid Services (CMS) website. Reimbursement for the disputed services is calculated as follows:
 - Procedure code 88307 has a status indicator of X, which denotes ancillary services paid under OPPS with separate APC payment. These services are classified under APC 0344, which, per OPPS Addendum A, has a payment rate of \$54.32. This amount multiplied by 60% yields an unadjusted labor-related amount of \$32.59. This amount multiplied by the annual wage index for this facility of 0.8917 yields an adjusted labor-related amount of \$29.06. The non-labor related portion is 40% of the APC rate or \$21.73. The sum of the labor and non-labor related amounts is \$50.79. The cost of these services does not exceed the annual fixed-dollar threshold of \$1,800. The outlier payment amount is \$0. The total APC payment for this line is \$50.79. This amount multiplied by 200% yields a MAR of \$101.58.
 - Procedure code 88311 has a status indicator of X, which denotes ancillary services paid under OPPS with separate APC payment. These services are classified under APC 0342, which, per OPPS Addendum A, has a payment rate of \$10.06. This amount multiplied by 60% yields an unadjusted labor-related amount of \$6.04. This amount multiplied by the annual wage index for this facility of 0.8917 yields an adjusted labor-related amount of \$5.39. The non-labor related portion is 40% of the APC rate or \$4.02. The sum of the labor and non-labor related amounts is \$9.41. The cost of these services does not exceed the annual fixed-dollar threshold of \$1,800. The outlier payment amount is \$0. The total APC payment for this line is \$9.41. This amount multiplied by 200% yields a MAR of \$18.82.

- Procedure code 26910 has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 100%. These services are classified under APC 0054, which, per OPPS Addendum A, has a payment rate of \$1,849.61. This amount multiplied by 60% yields an unadjusted labor-related amount of \$1,109.77. This amount multiplied by the annual wage index for this facility of 0.8917 yields an adjusted labor-related amount of \$989.58. The non-labor related portion is 40% of the APC rate or \$739.84. The sum of the labor and non-labor related amounts is \$1,729.42. The cost of these services does not exceed the annual fixed-dollar threshold of \$1,800. The outlier payment amount is \$0. The total APC payment for this line is \$1,729.42. This amount multiplied by 200% yields a MAR of \$3,458.84.
 - Procedure code 26520 has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 50%. These services are classified under APC 0053, which, per OPPS Addendum A, has a payment rate of \$1,097.38. This amount multiplied by 60% yields an unadjusted labor-related amount of \$658.43. This amount multiplied by the annual wage index for this facility of 0.8917 yields an adjusted labor-related amount of \$587.12. The non-labor related portion is 40% of the APC rate or \$438.95. The sum of the labor and non-labor related amounts is \$1,026.07. The cost of these services does not exceed the annual fixed-dollar threshold of \$1,800. The outlier payment amount is \$0. The total APC payment for this line, including multiple-procedure discount, is \$513.04. This amount multiplied by 200% yields a MAR of \$1,026.08.
 - Per Medicare policy, procedure code 11752 may not be reported with procedure code 26910 billed on the same claim. Payment for this service is included in the payment for the primary procedure. A modifier is allowed in order to differentiate between the services provided. Separate payment for the services billed may be justified if a modifier is used appropriately. The requestor billed the disputed service with an appropriate modifier. Separate payment is allowed. Procedure code 11752 has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 50%. These services are classified under APC 0022, which, per OPPS Addendum A, has a payment rate of \$1,442.92. This amount multiplied by 60% yields an unadjusted labor-related amount of \$865.75. This amount multiplied by the annual wage index for this facility of 0.8917 yields an adjusted labor-related amount of \$771.99. The non-labor related portion is 40% of the APC rate or \$577.17. The sum of the labor and non-labor related amounts is \$1,349.16. The cost of these services does not exceed the annual fixed-dollar threshold of \$1,800. The outlier payment amount is \$0. The total APC payment for this line, including multiple-procedure discount, is \$674.58. This amount multiplied by 200% yields a MAR of \$1,349.16.
 - Procedure code 14040 has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 50%. These services are classified under APC 0136, which, per OPPS Addendum A, has a payment rate of \$1,055.29. This amount multiplied by 60% yields an unadjusted labor-related amount of \$633.17. This amount multiplied by the annual wage index for this facility of 0.8917 yields an adjusted labor-related amount of \$564.60. The non-labor related portion is 40% of the APC rate or \$422.12. The sum of the labor and non-labor related amounts is \$986.72. The cost of these services does not exceed the annual fixed-dollar threshold of \$1,800. The outlier payment amount is \$0. The total APC payment for this line, including multiple-procedure discount, is \$493.36. This amount multiplied by 200% yields a MAR of \$986.72.
4. The total allowable reimbursement for the services in dispute is \$6,941.20. This amount less the amount previously paid by the insurance carrier of \$1,342.07 leaves an amount due to the requestor of \$5,599.13. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$5,599.13.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$5,599.13, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

_____	Grayson Richardson	February 27, 2013
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.